

**Effective 5/13/2014**

**4-18-107 Utah Agriculture Certificate of Environmental Stewardship Program.**

- (1) There is created the Utah Agriculture Certificate of Environmental Stewardship Program.
- (2) The commission, with the assistance of the department and with the advice of the Water Quality Board, created in Section 19-1-106, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:
  - (a)
    - (i) best management practices;
    - (ii) state technical standards; and
    - (iii) guidelines for nutrient management plans;
  - (b) requirements for qualification under the Utah Agriculture Certificate of Environmental Stewardship Program that:
    - (i) are consistent with sustainable agriculture;
    - (ii) help prevent harm to the environment, including prevention of an agricultural discharge; and
    - (iii) encourage agricultural operations in the state to follow:
      - (A) best management practices; and
      - (B) nutrient management plans that meet the state technical standards appropriate for each type of agricultural operation;
  - (c) the procedure for qualification under the Utah Agriculture Certificate of Environmental Stewardship Program;
  - (d) the requirements and certification process for an individual to become a certified conservation planner; and
  - (e) standards and procedures for administering the Utah Agriculture Certificate of Environmental Stewardship Program, including:
    - (i) renewal of a certification under Subsection (4)(b);
    - (ii) investigation and revocation of a certification under Subsection (6); and
    - (iii) revocation of a certification under Subsection (7)(b).
- (3) An owner or operator of an agricultural operation may apply to certify the agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship Program in accordance with this section.
- (4)
  - (a) Except as provided in Subsection (6) or (7), a certified agricultural operation remains certified for a period of five years after the day on which the agricultural operation becomes certified.
  - (b) A certified agricultural operation may, in accordance with commission rule, renew the certification for an additional five years to keep the certification for a total period of 10 years after the day on which the agricultural operation becomes certified.
- (5) Subject to review by the commissioner or the commissioner's designee, a certified conservation planner shall certify each qualifying agricultural operation that applies to the Utah Agriculture Certificate of Environmental Stewardship Program.
- (6)
  - (a) Upon request of the Department of Environmental Quality or upon receipt by the department of a citizen environmental complaint, the department shall, with the assistance of certified conservation planners as necessary, investigate a certified agricultural operation to determine whether the agricultural operation has committed a significant violation of the requirements of the Utah Agriculture Certificate of Environmental Stewardship Program.
  - (b) If, after completing an investigation described in Subsection (6)(a), the department determines that a certified agricultural operation has committed a significant violation of the

requirements for the Utah Agriculture Certificate of Environmental Stewardship Program, the department shall report the violation to the commission.

- (c) Upon receipt of a report described in Subsection (6)(b), the commission shall review the report and:
  - (i) revoke the agricultural operation's certification; or
  - (ii) set terms and conditions for the agricultural operation to maintain its certification.
- (7)
  - (a) If, for a certification renewal under Subsection (4)(b), or an investigation under Subsection (6)(a), the department requests access to a certified agricultural operation, the certified agricultural operation shall, at a reasonable time, allow access for the department to:
    - (i) inspect the agricultural operation; or
    - (ii) review the records of the agricultural operation.
  - (b) If a certified agricultural operation denies the department access as described in Subsection (7)(a), the commission may revoke the agricultural operation's certification.
- (8) If the commission changes a requirement of the Utah Agriculture Certificate of Environmental Stewardship Program after an agricultural operation is certified in accordance with former requirements, during the certification and renewal periods described in Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new requirement, but the agricultural operation is not subject to the new requirement until the agricultural operation reapplies for certification.
- (9) Nothing in this section exempts an agricultural discharge made by a certified agricultural operation from the provisions of Subsection 19-5-105.5(3)(b).
- (10)
  - (a) Except as provided in Subsections 19-5-105.6(2) and (3), a certified agriculture operation may not be required to implement additional projects or best management practices to address nonpoint source discharges.
  - (b) The Division of Water Quality shall consider an agriculture operation's compliance with certification under an approved agriculture environmental stewardship program a mitigating factor for penalty purposes, as provided in Section 19-5-105.6.

Amended by Chapter 383, 2014 General Session